

1 Traeger Machetanz, Esq.
2 OLES MORRISON RINKER & BAKER, LLP
3 745 Fourth Avenue, Suite 502
4 Anchorage, AK 99501-2136
5 Telephone: (907) 258-0106
6 Telecopier: (907) 258-5519

7 Attorneys for Nugget Construction Co.,
8 Inc., and USF&G, Defendants

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF ALASKA AT ANCHORAGE

11 UNITED STATES OF AMERICA for the)
12 use of NORTH STAR TERMINAL &)
13 STEVEDORE COMPANY, d/b/a NORTHERN)
14 STEVEDORING & HANDLING, and NORTH)
15 STAR TERMINAL & STEVEDORE COMPANY,)
16 d/b/a Northern Stevedoring &)
17 Handling, on its own behalf,)

No. A98-009 CIV (HRH)

18 Plaintiffs,)

19 and)

20 UNITED STATES OF AMERICA for the)
21 use of SHORESIDE PETROLEUM, INC.,)
22 d/b/a Marathon Fuel Service, and)
23 SHORESIDE PETROLEUM, INC., d/b/a)
24 Marathon Fuel Service, on its own)
25 behalf,)

DEFENDANT NUGGET
CONSTRUCTION'S MOTION TO
EXTEND DEADLINE FOR
EXPERT REPORTS

Intervening Plaintiffs,)

and)

METCO, INC.,)

Intervening Plaintiff,)

vs.)

21 NUGGET CONSTRUCTION, INC.; SPENCER)
22 ROCK PRODUCTS, INC.; UNITED)
23 STATES FIDELITY AND GUARANTY)
24 COMPANY; and ROBERT A. LAPORE,)

25 Defendants.)

1 COMES NOW, Defendant Nugget Construction, Inc. by and
2 through its counsel of record, Oles Morrison Rinker & Baker LLP,
3 seeking an order from the court extending the deadline for
4 filing of expert reports from the presently scheduled date of
5 February 14, 2006 to March 27, 2006.
6

7 On October 11, 2005, the parties, through North Star's
8 counsel, submitted a Report and Proposed Calendar of Counsel
9 Following Conference in Accordance with Court's Order Dated
10 August 11, 2005. In that Report, the parties set forth a
11 Pretrial Checklist that included a deadline for "Final witness
12 lists and identification of lay and expert witnesses and related
13 information" of February 14, 2006. In the Report, the parties
14 indicated that this action included the disclosure of expert
15 reports pursuant to Rule 26(a)(2).
16

17 On December 27, 2005, Nugget submitted its Third
18 Supplemental Disclosure, in which it identified Bert Millikin as
19 an expert witness. The Disclosure included a general
20 description of the opinions to be expressed by Mr. Millikin. It
21 stated that he "will testify on practices and contractual
22 relationships between owners and general contractors and lower
23 tier subcontractors and suppliers on federal projects, including
24
25 *U.S. ex rel. North Star, et al. v. Nugget Construction, et al.*

Case No. A98-009 CIV (HRH)
DEFENDANT NUGGET CONSTRUCTION'S MOTION TO
EXTEND DEADLINE FOR EXPERT REPORTS -- Page 2 of 5

1 without limitation, the handling of pay estimates and payments,
2 back charges and subcontractor and supplier default." To
3 support this testimony, access to the testimony of the key
4 individuals for each of the subcontractors relating to their
5 experience on the project is important.
6

7 The availability of Jack Goodwill, North Star's
8 project manager, was requested on February 1, 2006 in the hope
9 of deposing him before expert reports were due. On February 6,
10 2006, North Star's counsel responded that Mr. Goodwill was about
11 to leave on a long family vacation, was not available for
12 deposition before leaving, but would be available after he
13 returned on March 13, 2006.
14

15 Based on Mr. Goodwill's unavailability, Nugget asks
16 the court to extend the previously agreed deadline for expert
17 reports to March 27, 2006. Nugget's counsel sought agreement
18 from all parties to this extension and offered to allow
19 sufficient time to study the report and depose Mr. Millikin
20 after that date, even if it meant extending the discovery cutoff
21 date. However, North Star's counsel responded that North Star
22 was unwilling to stipulate to the requested extension. Counsel
23 for USF&G replied and asked specifically for the deadline of
24 *U.S. ex rel. North Star, et al. v. Nugget Construction, et al.*
25

Case No. A98-009 CIV (HRH)
DEFENDANT NUGGET CONSTRUCTION'S MOTION TO
EXTEND DEADLINE FOR EXPERT REPORTS -- Page 3 of 5

1 March 27, 2006, which is what is being requested herein.
2 Shoreside and Metco did not respond before this motion was
3 filed.

4
5 There is no prejudice to Plaintiffs in the requested
6 extension, as they were informed in December the scope of
7 Mr. Millikin's testimony and Nugget has offered to extend the
8 timeframes for deposing Mr. Millikin after the report is
9 delivered. Mr. Goodwill's vacation was unexpected (he no longer
10 works for North Star), but North Star has agreed to make him
11 available on March 16, 2006 for his deposition. Once that is
12 completed, Mr. Millikin will be able to complete his expert
13 report shortly thereafter. Based on the foregoing, Nugget's
14 request for an extension of the expert report deadline should be
15 granted.
16

17 Dated: February 14, 2006

17 OLES MORRISON RINKER & BAKER LLP
18 Attorneys for Nugget Construction,
19 Inc., and United States
20 Fidelity and Guaranty Co.

21 By: s/Traeger Machetanz

21 Traeger Machetanz
22 machetanz@oles.com
23 Alaska Bar No. 8411127
24 745 West 4th Avenue, Suite 502
25 Anchorage, AK 99501
Phone: (907) 258-0106
Fax: (907) 258-5519

U.S. ex rel. North Star, et al. v. Nugget Construction, et al.
Case No. A98-009 CIV (HRH)
DEFENDANT NUGGET CONSTRUCTION'S MOTION TO
EXTEND DEADLINE FOR EXPERT REPORTS -- Page 4 of 5

P-TM MOTION EXTEND RE EXPERT REPORTS

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of February, 2006, a true and correct copy of the foregoing was served

electronically via ECF on:

Michael W. Sewright, Esq.

mws@bpk.com

Burr, Pease & Kurtz

810 N Street

Anchorage, AK 99501

Steven J. Shamburek, Esq.

shamburek@gci.net

Law Office of Steven J. Shamburek

425 G Street, Suite 630

Anchorage, AK 99501-5872

Paul Stockler, Esq.

paulstockler@aol.com

1309 West 16th Avenue

Anchorage, AK 99501

Herbert A. Viergutz, Esq.

barmar@gci.net

Barokas Martin & Tomlinson

1029 West Third, Suite 280

Anchorage, AK 99501

and by U.S. mail on:

C. Patrick Stoll, Esq.

Herrig Vogt & Stoll LLP

4210 Douglas Bay Blvd., Suite 100

Granite Bay, CA 95746-5902

OLES MORRISON RINKER & BAKER LLP

By: s/Traeger Machetanz

U.S. ex rel. North Star, et al. v. Nugget Construction, et al.

Case No. A98-009 CIV (HRH)

DEFENDANT NUGGET CONSTRUCTION'S MOTION TO

EXTEND DEADLINE FOR EXPERT REPORTS -- Page 5 of 5